



CCOPY

Marcia Robinson Lower  
President &  
Executive Director

Board of Directors

Alan C. Myers

Chairman & Treasurer

Robin L. Dahlberg

Secretary

Daniel H. Galperin

Jeffrey B. Gracer

Harvey Keitel

Howard M. Maisel

Alice Rosenwald

Melissa G. Salton

Hershel B. Sarbin

Carol Wilson Spigner

Anne Strickland Squadron

December 17, 2004

VIA FAX - (601) 352-7757  
and REGULAR MAIL

Ms. Betty Mallett  
McGlinchey Stafford PLLC  
City Centre, Suite 1100  
200 South Lamar St.  
Jackson, MS 39201

Re: *Olivia Y. et al. v. Barbour et al.*

Dear Ms. Mallett:

Enclosed is Plaintiffs' First Request for Production of Documents. Pursuant to the Federal Rules of Civil Procedure, please respond within 30 days.

In light of the volume of documents to be exchanged by both parties by request and/or court order, we will be Bates-stamping all documents produced by Plaintiffs and would appreciate Defendants doing the same.

If you have any questions, please contact me. Thank you.

Sincerely yours,

*Eric Thompson / aw*  
Eric Thompson  
Plaintiffs' counsel

Enclosure

cc: Wayne Drinkwater & Melody McAnally, Bradley Arant  
Stephen Leech, Esq.  
John Lang, Loeb & Loeb

404 Park Avenue South, New York, NY 10016  
Tel: 212-683-2210 • Fax: 212-683-4015 • [info@childrensrights.org](mailto:info@childrensrights.org) • [www.childrensrights.org](http://www.childrensrights.org)

EXHIBIT

A

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

OLIVIA Y., et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 3:04CV251LN

HALEY BARBOUR, et al.

DEFENDANTS

**PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Federal Rule of Civil Procedure 34, Plaintiffs request that Defendants produce the requested documents at the offices of Plaintiffs' counsel, Children's Rights, 404 Park Ave. South, 11th Floor, New York, NY 10016, within 30 days as provided for by the Rules.

**DEFINITIONS**

1. Mississippi Department of Human Services ("DHS") includes all Divisions of the Department of Human Services, including all regional and county offices of the Division of Family and Children's Services ("DFCS").
2. "Document" as used herein is to be construed in its broadest sense, and includes any original, reproduction, or copy of any kind of a written or documented material, including but not limited to audio and video tapes, correspondence, memoranda, interoffice communications, electronic mail, notes, diaries, calendars, personal digital assistant device entries, contract documents, estimates, vouchers, minutes of meetings, invoices, checks, reports, telegraphs, notes of telephone conversations, notes of oral communications, computer-stored information that is retrievable in any form, writings, drawings, graphs, charts, photographs, and other data compilations from which information can be

obtained, or translated if necessary, by plaintiffs through detection devices into a reasonably usable form.

3. The term "relating to" means having any relationship or connection to, concerning, being connected to, commenting on, responding to, containing, evidencing, showing, memorializing, describing, analyzing, reflecting, pertaining to, comprising, constituting, or otherwise establishing any reasonable, logical or causal connection.
4. As used herein, the word "or" shall mean and/or.
5. The term "MACWIS" means the Mississippi Automated Child Welfare Information System.
6. The term "Self-Assessment" as used herein refers to the Mississippi Department of Human Services Division of Family and Children's Services Child and Family Service Review Statewide Self Assessment, issued in December 2003.
7. The term "child welfare services" as used herein refers to any and all services provided by DHS, or by any public or private agency that contracts with DHS, to a child who is in the custody of DHS as a result of a report of maltreatment.
8. The term "named plaintiffs" is limited to the named plaintiffs in DHS custody: Olivia Y., Jamison J., John A., Cody B., and Mary, Tom, Matthew and Dana W.

#### INSTRUCTIONS

1. Each document requested is to be produced in its original file folder, file jacket or cover (or Defendants may, in the alternative, designate in writing the titles of such folder, jacket or cover with respect to each such document) and the agency, department, government unit, and individual from whose files the document is

being produced are to be indicated. If there are no documents responsive to any particular request, Defendants shall so state in writing.

2. If Defendants refuse to produce any requested document, or part of any requested document, under a claim of attorney-client privilege, work product, or any other privilege, Defendants shall submit, for each document, or part of a document, withheld, a written statement justifying the claim of privilege.
3. If Defendants redact part of any requested document under a claim of attorney-client privilege, work product, or any other privilege, Defendants shall clearly indicate each redaction and submit, for each redaction, a written statement justifying the claim of privilege.
4. This is a continuing request. Any document obtained, identified or located after the date of production that would have been produced had it been available or had its existence been known at that time should be produced immediately, including updates to the records described in this document request.
5. Documents attached to other documents or materials shall not be separated unless sufficient records are kept to permit reconstruction of the grouping or context in which the document is maintained in the ordinary course of your business.
6. If any document which DHS would have produced in response to any request was, but is no longer, in DHS's present possession or subject to their control, or is no longer in existence, please state whether any such document is: (1) missing or lost; (2) destroyed; (3) transferred to others; or (4) otherwise disposed of. In any such instance, set forth the surrounding circumstances and any authorization for such disposition and state the approximate date of any such disposition, and, if

known, state the present location and custodian of such document.

7. The applicable time period for all Document Requests is 2002 through the present, unless otherwise specifically noted.

#### **REQUESTS FOR PRODUCTION OF DOCUMENTS**

**Document Request No. 1:** Any and all documents in your possession, custody or control, relating to each of the named plaintiffs for the entire time that they have been known to DHS, including but not limited to, case files and other records created or maintained by DHS, and any public or private agencies that have contracted with DHS to provide child welfare services or that otherwise provide such services.

**Document Request No. 2:** All written policies, procedures and directives in your possession, custody or control, issued by DFCS at the state and regional level and in effect as of March 30, 2004, or thereafter, that relate to protecting and providing services to children in DHS custody, including but not limited to such policies, procedures and directives regarding:

- a. Taking children into DHS custody.
- b. Assessing children taken into DHS custody.
- c. Selecting placements for children taken into DHS custody.
- d. Placing children in DHS custody with relatives.
- e. Placing children in DHS custody in settings that have not been licensed by DHS.
- f. Providing foster care and case management services.
- g. Reporting, receiving, memorializing, screening and processing reports of abuse or neglect of children in DHS custody.
- h. Investigating reports of abuse and neglect of children in DHS custody.
- i. Referring reports of abuse and neglect of children in DHS custody to the Youth Court.

- j. Evidencing or substantiating reports of abuse or neglect of children in DHS custody.
- k. Selecting a permanency goal (e.g. reunification, permanent relative placement, adoption, emancipation).
- l. Legally freeing children for adoption.
- m. Placing children in adoptive homes.
- n. Monitoring compliance with all state and federal laws, rules, regulations and policies governing the provision of child welfare services to children in DHS custody.

Document Request No. 3: All current organizational charts for DHS and DFCS in your possession, custody or control, listing job titles and names of persons who hold those titles.

Document Request No. 4: All documents in your possession, custody or control, reflecting or concerning the data elements currently capable of being input into MACWIS, and all documents reflecting all types of reports that MACWIS is currently capable of generating.

Document Request No. 5: All documents in your possession, custody or control, regarding problems and/or inaccuracies in MACWIS data such as described on pages 22-23 of the Self-Assessment, and all documents regarding efforts to address those problems and/or inaccuracies.

Document Request No. 6: All documents in your possession, custody or control regarding the progress in achieving full MACWIS integration into county casework such as described on page 22 of the Self-Assessment.

Document Request No. 7: All regular or ad hoc management reports in your possession, custody or control, generated by MACWIS, including but not limited to:

- a. Aggregate reports detailing regional and state data totals, such as discussed on page 21 of the Self-Assessment.
- b. Reports provided to the Quality Improvement Unit, the Foster Care Review Staff and

Regional Directors.

- c. Monthly and quarterly reports generated for purposes of corrective action and system evaluation, including but not limited to reports concerning monthly contacts by caseworkers with foster children and the provision of medical care to foster children, such as described on page 49 of the Self-Assessment.
- d. Reports that identify children who have been in the custody of DHS 15 out of the last 22 months.
- e. Reports reflecting the number of abuse and neglect investigations that have been undertaken, including any reports that identify the number of investigations on child victims while in DHS custody.
- f. Custody Contact, Open Investigation and Permanency Reports.

Document Request No. 8: All internal and external assessments, audits, evaluations or reviews of DFCS operations and practice in your possession, custody or control, including but not limited to documents generated by the Quality Improvement Unit, 6-month reviews, Peer Reviews, Program Integrity Unit reviews, and all documents regarding any response, corrective action or "action plan" requested or undertaken in relation to those assessments audits, evaluations, and reviews.

Document Request No. 9: All reports in your possession, custody or control, of case planning non-compliance issues generated by the Foster Care Review Program Administrator such as discussed on page 27 of the Self-Assessment, and all responses to those reports, including but not limited to all responses from Regional Directors.

Document Request No. 10: All reports in your possession, custody or control, regarding the frequency of court reviews for children in DHS custody, including but not limited to Title IV-E Eligibility reviews.

Document Request No. 11: All reports in your possession, custody or control regarding the number of children in DHS custody who were not provided a periodic case review at least

once every six-months.

Document Request No. 12: All "Quality Assurance reports" in your possession, custody or control, including but not limited to the reports that are "consistent with" the Child and Family Service Review, such as discussed on page 43 of the Self-Assessment.

Document Request No. 13: The Mississippi State Advisory Board's Annual Assessment of DFCS provided outcome data for each year from 2000 to the present.

Document Request No. 14: Every report of "foster care review deficiencies," such as described on page 47 of the Self-Assessment.

Document Request No. 15: All documents in your possession, custody or control, prepared for, concerning, or generated by all Statewide Assessment focus groups convened in preparation for the Self-Assessment or thereafter.

Document Request No. 16: All documents in your possession, custody or control, prepared for, concerning, or generated by any Service Array Assessment, such as described on page 69 of the Self-Assessment.

Document Request No. 17: Any Annual Assessments conducted by the Homestead Peer Committee.

Document Request No. 18: Any adoption disruption assessment, such as discussed on page 81 of the Self-Assessment.

Document Request No. 19: Any Adoptive Families Recruitment Plan Assessment, such as discussed on pages 113-114 of the Self-Assessment.

Document Request No. 20: The Foster Care Reviewers Monthly Activity Reports.

Document Request No. 21: All documents in your possession, custody or control, reflecting the turnover and vacancy rates for DFCS caseworkers, managers and supervisors.

Document Request No. 22: All documents in your possession, custody or control, concerning DFCS caseworker caseloads, staffing to census ratios, and adequate staffing estimates, such as discussed on pages 12-15 of the Self-Assessment.

Document Request No. 23: All documents in your possession, custody or control regarding staffing cutbacks, hiring freezes or temporary assignments at DFCS.

Document Request No. 24: All documents in your possession, custody or control, reflecting the number of children in DHS custody freed for adoption, including the numbers broken down by county.

Document Request No. 25: All documents in your possession, custody or control, reflecting the number of adoptions of children in DHS custody that have been finalized, including the numbers broken down by county.

Document Request No. 26: All documents in your possession, custody or control, reflecting the number of placement moves experienced by children in DHS custody, including the numbers broken down by county.

Document Request No. 27: All documents in your possession, custody or control, reflecting the most current listing of licensed or approved placements for children in DHS custody, whether provided by DHS, other public agencies, or by private agencies with which Defendants contract, including the agency providing such placements, the level of care provided by such placements, the location of the placements, the date the placements were licensed or approved, the number of children approved to be placed in these placements, and the number and ages of foster children actually placed in these placements.

Document Request No. 28: All documents in your possession, custody or control reflecting the placement of children in DHS custody in unlicensed homes or facilities.

Document Request No. 29: All documents in your possession, custody or control concerning children in DHS custody who are awaiting new foster placements, certain specific placements, or certain types of placements, such as therapeutic foster home placements, including but not limited to logs and wait lists.

Document Request No. 30: The current State Plan submitted pursuant to Title IV-B and Title IV-E of the federal Social Security Act, including but not limited to documents required by 42 U.S.C. §§ 622 (b); 629b, 671, 5106a(d), and 5106c.

Document Request No. 31: All statistical reports required to be generated pursuant to 42 U.S.C. § 676.

Document Request No. 32: All reports by Defendants to the Secretary of the federal Department of Health and Human Services pursuant to the Early and Periodic Screening, Diagnostic, and Treatment Services Act, 42 U.S.C. § 1396a(a)(43)(D).

Document Request No. 33: Any and all correspondence received from or sent to the Department of Health and Human Services, Administration for Children and Families, from 2003 to the present, regarding the 2004 Child and Family Services Review of the State of Mississippi's child welfare program and any related Program Improvement Plan (PIP).

Document Request No. 34: Any and all Program Improvement Plans (PIPs) submitted to the Department of Health and Human Services, Administration for Children and Families subsequent to the 2004 Child and Family Services Review of the State of Mississippi's child welfare program.

Document Request No. 35: Any and all documents relating to child maltreatment reports, child abuse and neglect investigations, critical incident reports, child fatality reports, or special reviews regarding the abuse or neglect of children in DHS custody or of children in

homes or facilities where children in DHS custody reside, including facilities not licensed by DHS.

Dated: New York, New York  
December 17, 2004

Respectfully Submitted,

By:

Corene Kendrick

W. Wayne Drinkwater, Jr. (MBN 6193)  
Melody McAnally (MBN 101236)  
BRADLEY ARANT ROSE & WHITE LLP  
188 East Capital Street, Suite 450  
Jackson, MS 39201  
(601) 948-8000

Stephen H. Leech (MBN 1173)  
850 East River Place, Suite 300  
Jackson, MS 39202  
(601) 355-4013

Marcia Robinson Lowry (MBN 43991 *pro hac vice*)  
Eric E. Thompson (MBN 43993 *pro hac vice*)  
Shirim Nothenberg (MBN 43990 *pro hac vice*)  
Corene Kondrick (MBN 43989 *pro hac vice*)  
CHILDREN'S RIGHTS  
404 Park Avenue South, 11th Floor  
New York, NY 10016  
(212) 683-2210

John Lang (MBN 43987 *pro hac vice*)  
Christian Carbone (MBN 43986 *pro hac vice*)  
Eric Manne (MBN 43988 *pro hac vice*)  
LOEB & LOEB LLP  
345 Park Ave.  
New York, NY 10154  
(212) 407-4000

PLAINTIFFS' COUNSEL